

Message Text

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ORIGIN EB-08

INFO OCT-01 AF-10 ISO-00 TRSE-00 L-03 AID-05 PM-05
DODE-00 XMB-02 /034 R

DRAFTED BY EB/IFD/OMA:BGCROWE
APPROVED BY EB/IFD/OMA:JABWINDER
DSAA:DESOTO
TREASURY:ADRESS
TREASURY:MURPHY
AF:LWALKER
GC/AFR:EDRAGON
L/EB:GLEHRNER
L/AF:CCANNADY
AF/C:RKRATES

-----070023 281756Z /66

P 281709Z JUN 78
FM SECSTATE WASHDC
TO AMEMBASSY KINSHASA PRIORITY

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E.O. 11652: N/A

TAGS: EFIN

SUBJECT: GOZ ARREARAGES AND USG RESTRICTIONS ON FAA
ASSISTANCE

REFTEL: (A) DSAA MSG 6010 1020/1047/78 13 JUNE 78
(B) KINSHASA 6263

1. BROOKE AMENDMENT (SECTION 503), FOREIGN ASSISTANCE AND
RELATED PROGRAMS APPROPRIATIONS ACT, 1978 FOREIGN ASSIS-
TANCE ACT (P.L. 95-148) PROVIDES THAT NO ASSISTANCE
APPROPRIATED UNDER THE ACT SHALL BE FURNISHED TO A COUNTRY
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THAT IS IN ARREARS FOR MORE THAN ONE YEAR IN PAYMENT OF ANY
USG LOAN EXTENDED PURSUANT TO A PROGRAM FOR WHICH FUNDS ARE
APPROPRIATED UNDER THE ACT. EXCEPTIONS ARE PERMITTED IF:
(1) THE DEBT HAS BEEN DISPUTED BY THE DEBTOR COUNTRY PRIOR
TO THE ENACTMENT OF THE ACT, OR (2) THE DEBTOR HAS ARRANGED
TO MAKE PAYMENT OR TAKEN APPROPRIATE STEPS, INCLUDING
RENEGOTIATION, TO SETTLE THE ARREARS.

2. SINCE BROOKE AMENDMENT AFFECTS ASSISTANCE APPROPRIATED UNDER FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION ACT, IT APPLIES TO FMS AND AID PROGRAMS. IT DOES NOT APPLY TO P.L. 480 LOANS WHICH ARE APPROPRIATED UNDER SEPARATE LEGISLATION OR TO EXIM OR CCC LOANS. AS YOU ARE AWARE,

ZAIRE RAN UP AGAINST THE BROOKE AMENDMENT WHEN THE USG SOUGHT TO EXTEND THE \$17.5 MILLION FMS CREDIT THIS PAST MAY BECAUSE INTEREST PAYMENTS ON FMS CREDITS (\$435,953.96) DUE DURING THE SECOND HALF OF 1976 WERE OVER ONE YEAR PAST DUE. GOZ PAID \$435,953.21 IN SETTLEMENT OF THOSE ARREARS. (N.B. \$0.75 IS STILL OUTSTANDING.)

3. ON JULY 2, 1978, BROOKE AMENDMENT RESTRICTIONS WILL BE TRIGGERED UNLESS GOZ MAKES PAYMENTS ON FMS CREDITS WHICH WILL BE OVER A YEAR OLD ON THAT DATE. DSAA (REFTEL) HAS INDICATED TOTAL AMOUNTS DUE FROM GOZ ON ALL OUTSTANDING FMS CREDITS THROUGH JULY 1, 1978. OF THESE, \$671,828.58 (WHICH INCLUDES \$0.75 OF 1976 INTEREST) WILL BE OVER TWELVE MONTHS PAST DUE AS OF JULY 2, 1978.

4. REQUEST EMBASSY APPROACH GOZ AT APPROPRIATE LEVEL TO URGE IMMEDIATE PAYMENT OF ARREARS IN EXCESS OF ONE YEAR \$671,828.58 IN ORDER TO AVOID TRIGGERING OF BROOKE AMENDMENT RESTRICTIONS ON JULY 2, 1978. GOZ SHOULD ALSO LIMITED OFFICIAL USE

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BE ENCOURAGED TO BECOME CURRENT ON PAYMENTS UNDER ALL USG PROGRAMS.

5. BROOKE AMENDMENT COULD ALSO BE TRIGGERED IN SEPTEMBER AND AGAIN IN OCTOBER IF OVERDUE INTEREST PAYMENTS (TOTALING \$105,518.96) ON TWO FMS CREDITS NOT SUBJECT TO EITHER 1976 OR 1977 BILATERAL DEBT RESCHEDULING AGREEMENTS ARE NOT PAID.

6. IN RESPONSE TO QUERY PER REF B, AID HAD ARREARAGES WHICH WOULD HAVE BEEN OVER A YEAR OLD JULY 2, 1978. HOWEVER, GOZ MADE VARIOUS PAYMENTS IN 1977 ON LOANS WHICH ARE COVERED BY THE 1977 RESCHEDULING AGREEMENT. AID HAS REAPPLIED THESE MONIES AGAINST DELINQUENT PAYMENTS DUE FOR THE 1976 AND 1977 RESCHEDULED DEBT, AND FOR LOAN PAYMENTS NOT INCLUDED IN THE RESCHEDULING. EVEN AFTER THIS ADJUSTMENT GOZ OWES AID ABOUT \$1 MILLION; BUT THE BROOKE AMENDMENT WILL NOT BE TRIGGERED UNTIL JANUARY 7, 1979. HOWEVER, EVEN WITH ADJUSTMENT, GOZ WILL BE IN VIOLATION OF THE SIX MONTH CUTOFF UNDER FAA SECTION 620 (Q) AS OF JULY 7, 1978.

FYI. ON MAY 24, 1976, AID ADMINISTRATOR WAIVED APPLICATION
OF THIS PROVISION. AID LAWYERS ARE REVIEWING THIS WAIVER
TO DETERMINE WHETHER THIS WAIVER IS STILL EFFECTIVE.
END FYI. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DEBT REPAYMENTS, FOREIGN ASSISTANCE LAW
Control Number: n/a
Copy: SINGLE
Draft Date: 28 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE164298
Document Source: CORE
Document Unique ID: 00
Drafter: BGCROWE
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780267-0979
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780611/aaaaajbs.tel
Line Count: 120
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a3b5c97d-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 TEL AVIV 8, 78 KINSHASA 6263
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 03 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2170097
Secure: OPEN
Status: NATIVE
Subject: GOZ ARREARAGES AND USG RESTRICTIONS ON FAA ASSISTANCE
TAGS: EFIN, EAIR, CG
To: KINSHASA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/a3b5c97d-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014